

House File 657 - Introduced

HOUSE FILE _____
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the employment of unauthorized aliens and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1768YH 82
5 ak/es/88

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1 1 Section 1. NEW SECTION. 91F.1 DEFINITIONS.
1 2 As used in this chapter:
1 3 1. "Commissioner" means the labor commissioner.
1 4 2. "Employee" means a natural person who is employed in
1 5 this state for wages paid on an hourly basis by an employer.
1 6 3. "Employer" means a person, as defined in section 4.1,
1 7 who in this state employs for wages, paid on an hourly basis,
1 8 one or more natural persons. An employer does not include a
1 9 client, patient, customer, or other person who obtains
1 10 professional services from a licensed person who provides the
1 11 services on a fee service basis or as an independent
1 12 contractor, or the state, or an agency or governmental
1 13 subdivision of the state.
1 14 4. "Unauthorized alien" means a person who is not lawfully
1 15 present in the United States.
1 16 Sec. 2. NEW SECTION. 91F.2 UNAUTHORIZED ALIENS ==
1 17 EMPLOYER PROHIBITION.
1 18 An employer shall not knowingly employ as an employee an
1 19 unauthorized alien. For purposes of this section, "knowingly
1 20 employ as an employee an unauthorized alien" means an employer
1 21 has actual knowledge that a person is an unauthorized alien
1 22 and employs the person as an employee. An employer who
1 23 obtains a verification of employment eligibility form required
1 24 by the federal Immigration Reform and Control Act of 1986, 8
1 25 U.S.C. } 1324a, shall not be considered in violation of this
1 26 chapter.
1 27 Sec. 3. NEW SECTION. 91F.3 PENALTIES.
1 28 1. An employer who violates section 91F.2 is subject to a
1 29 civil penalty of up to one thousand dollars.
1 30 2. A corporate officer of an employer who, by knowingly
1 31 directing the repeated violation of section 91F.2,
1 32 demonstrates a pattern of employing unauthorized aliens
1 33 commits a serious misdemeanor.
1 34 3. An employer who, through repeated violation of section
1 35 91F.2, demonstrates a pattern of employing unauthorized aliens
2 1 may be ordered to pay punitive damages.
2 2 Sec. 4. NEW SECTION. 91F.4 DUTIES AND AUTHORITY OF THE
2 3 COMMISSIONER == ENFORCEMENT BY ATTORNEY GENERAL.
2 4 1. The commissioner shall adopt rules to implement and
2 5 enforce this chapter.
2 6 2. In order to carry out the purposes of this chapter, the
2 7 commissioner or the commissioner's representative, upon
2 8 presenting appropriate credentials to an employer's owner,
2 9 operator, or agent in charge, may:
2 10 a. Inspect employment records relating to the employees of
2 11 the employer.
2 12 b. Interview an employer, owner, operator, agent, or
2 13 employee, during working hours or at other reasonable times.
2 14 3. If the commissioner has reason to believe that an

2 15 employer may be in violation of this chapter, the commissioner
2 16 shall notify the attorney general, and provide the attorney
2 17 general with any supporting information, for prosecution of
2 18 the violation by the attorney general.

2 19 Sec. 5. NEW SECTION. 91F.5 PROHIBITIONS RELATING TO
2 20 CERTAIN ACTIONS BY EMPLOYEES == PENALTY == CIVIL REMEDY.

2 21 1. An employer shall not discharge an employee or take or
2 22 fail to take action regarding an employee's appointment or
2 23 proposed appointment or promotion or proposed promotion, or
2 24 regarding any advantage of an employee as a reprisal for a
2 25 failure by that employee to inform the employer that the
2 26 employee made a disclosure of information to any law
2 27 enforcement agency if the employee reasonably believes the
2 28 information evidences a violation of section 91F.2.

2 29 2. Subsection 1 does not apply if the disclosure of the
2 30 information is prohibited by statute.

2 31 3. An employer who violates subsection 1 commits a simple
2 32 misdemeanor.

2 33 4. Subsection 1 may be enforced through a civil action.

2 34 a. An employer who violates subsection 1 is liable to an
2 35 aggrieved employee for affirmative relief, including
3 1 reinstatement, with or without back pay, or any other
3 2 equitable relief the court deems appropriate, including
3 3 attorney fees and costs.

3 4 b. If an employer commits, is committing, or proposes to
3 5 commit an act in violation of subsection 1, an injunction may
3 6 be granted through an action in district court to prohibit the
3 7 person from continuing such acts. The action for injunctive
3 8 relief may be brought by an aggrieved employee or the attorney
3 9 general.

3 10 EXPLANATION

3 11 This bill creates new Code chapter 91F prohibiting
3 12 employers from employing unauthorized aliens. The bill
3 13 defines "unauthorized aliens" as any person who is not
3 14 lawfully present in the United States. An "employer" is any
3 15 person who employs for wages, paid on an hourly basis, one or
3 16 more natural persons. The bill prohibits employers from
3 17 knowingly employing an unauthorized alien. The bill provides
3 18 that a violation can occur in cases in which an employer
3 19 actually knows a person is an unauthorized alien. The bill
3 20 provides that a violation of this chapter is subject to a
3 21 civil penalty of \$1,000 and a corporate officer of an employer
3 22 who, through knowingly directing the repeated violations of
3 23 the chapter, demonstrates a pattern of employing unauthorized
3 24 aliens, commits a serious misdemeanor. An employer who
3 25 demonstrates a pattern of employing unauthorized aliens may be
3 26 ordered to pay punitive damages. The bill further authorizes
3 27 the labor commissioner within the department of workforce
3 28 development to adopt rules to implement and enforce this new
3 29 Code chapter and grants the commissioner the authority to
3 30 investigate employer records and to interview employees. The
3 31 bill provides that the commissioner shall forward any
3 32 suspected violations of this chapter to the attorney general
3 33 for prosecution.

3 34 The bill further provides that an employer shall not
3 35 discharge an employee from or take or fail to take action
4 1 regarding an employee's appointment or proposed appointment,
4 2 promotion or proposed promotion, or regarding any advantage of
4 3 an employee as a reprisal for a failure by that employee to
4 4 inform the employer that the employee made a disclosure of
4 5 information to any law enforcement agency if the employee
4 6 reasonably believes the information evidences a violation of
4 7 Code section 91F.2. An employer who violates these provisions
4 8 of this chapter commits a simple misdemeanor and is liable to
4 9 an aggrieved employee for affirmative relief including
4 10 reinstatement, with or without back pay, or any other
4 11 equitable relief the court deems appropriate, including
4 12 attorney fees and costs. In addition, an action for
4 13 injunctive relief may be brought by an aggrieved employee or
4 14 the attorney general.

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